

109TH CONGRESS  
1ST SESSION

# S. 167

To provide for the protection of intellectual property rights, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2005

Mr. HATCH (for himself, Mr. LEAHY, Mr. CORNYN, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for the protection of intellectual property rights,  
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Entertainment  
5 and Copyright Act of 2005”.

6 **TITLE I—ARTISTS’ RIGHTS AND**  
7 **THEFT PREVENTION**

8 **SEC. 101. SHORT TITLE.**

9 This title may be cited as the “Artists’ Rights and  
10 Theft Prevention Act of 2005” or the “ART Act”.

1 **SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RE-**  
 2 **CORDING OF MOTION PICTURES IN A MO-**  
 3 **TION PICTURE EXHIBITION FACILITY.**

4 (a) IN GENERAL.—Chapter 113 of title 18, United  
 5 States Code, is amended by adding after section 2319A  
 6 the following new section:

7 **“§ 2319B. Unauthorized recording of Motion pictures**  
 8 **in a Motion picture exhibition facility**

9 “(a) OFFENSE.—Any person who, without the au-  
 10 thorization of the copyright owner, knowingly uses or at-  
 11 tempts to use an audiovisual recording device to transmit  
 12 or make a copy of a motion picture or other audiovisual  
 13 work protected under title 17, or any part thereof, from  
 14 a performance of such work in a motion picture exhibition  
 15 facility, shall—

16 “(1) be imprisoned for not more than 3 years,  
 17 fined under this title, or both; or

18 “(2) if the offense is a second or subsequent of-  
 19 fense, be imprisoned for no more than 6 years, fined  
 20 under this title, or both.

21 The possession by a person of an audiovisual recording  
 22 device in a motion picture exhibition facility may be con-  
 23 sidered as evidence in any proceeding to determine wheth-  
 24 er that person committed an offense under this subsection,  
 25 but shall not, by itself, be sufficient to support a conviction  
 26 of that person for such offense.

1       “(b) FORFEITURE AND DESTRUCTION.—When a per-  
 2 son is convicted of a violation of subsection (a), the court  
 3 in its judgment of conviction shall, in addition to any pen-  
 4 alty provided, order the forfeiture and destruction or other  
 5 disposition of all unauthorized copies of motion pictures  
 6 or other audiovisual works protected under title 17, or  
 7 parts thereof, and any audiovisual recording devices or  
 8 other equipment used in connection with the offense.

9       “(c) AUTHORIZED ACTIVITIES.—This section does  
 10 not prevent any lawfully authorized investigative, protec-  
 11 tive, or intelligence activity by an officer, agent, or em-  
 12 ployee of the United States, a State, or a political subdivi-  
 13 sion of a State, or by a person acting under a contract  
 14 with the United States, a State, or a political subdivision  
 15 of a State.

16       “(d) IMMUNITY FOR THEATERS.—With reasonable  
 17 cause, the owner or lessee of a motion picture exhibition  
 18 facility where a motion picture or other audiovisual work  
 19 is being exhibited, the authorized agent or employee of  
 20 such owner or lessee, the licensor of the motion picture  
 21 or other audiovisual work being exhibited, or the agent  
 22 or employee of such licensor—

23               “(1) may detain, in a reasonable manner and  
 24       for a reasonable time, any person suspected of a vio-  
 25       lation of this section with respect to that motion pic-

1       ture or audiovisual work for the purpose of ques-  
 2       tioning or summoning a law enforcement officer; and

3               “(2) shall not be held liable in any civil or  
 4       criminal action arising out of a detention under  
 5       paragraph (1).

6       “(e) VICTIM IMPACT STATEMENT.—

7               “(1) IN GENERAL.—During the preparation of  
 8       the presentence report under rule 32(c) of the Fed-  
 9       eral Rules of Criminal Procedure, victims of an of-  
 10      fense under this section shall be permitted to submit  
 11      to the probation officer a victim impact statement  
 12      that identifies the victim of the offense and the ex-  
 13      tent and scope of the injury and loss suffered by the  
 14      victim, including the estimated economic impact of  
 15      the offense on that victim.

16              “(2) CONTENTS.—A victim impact statement  
 17      submitted under this subsection shall include—

18                      “(A) producers and sellers of legitimate  
 19      works affected by conduct involved in the of-  
 20      fense;

21                      “(B) holders of intellectual property rights  
 22      in the works described in subparagraph (A);  
 23      and

24                      “(C) the legal representatives of such pro-  
 25      ducers, sellers, and holders.

1       “(f) STATE LAW NOT PREEMPTED.—Nothing in this  
 2 section may be construed to annul or limit any rights or  
 3 remedies under the laws of any State.

4       “(g) DEFINITIONS.—In this section, the following  
 5 definitions shall apply:

6           “(1) TITLE 17 DEFINITIONS.—The terms  
 7 ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion  
 8 picture’, ‘motion picture exhibition facility’, and  
 9 ‘transmit’ have, respectively, the meanings given  
 10 those terms in section 101 of title 17.

11          “(2) AUDIOVISUAL RECORDING DEVICE.—The  
 12 term ‘audiovisual recording device’ means a digital  
 13 or analog photographic or video camera, or any  
 14 other technology or device capable of enabling the  
 15 recording or transmission of a copyrighted motion  
 16 picture or other audiovisual work, or any part there-  
 17 of, regardless of whether audiovisual recording is the  
 18 sole or primary purpose of the device.”.

19       “(b) CLERICAL AMENDMENT.—The table of sections  
 20 at the beginning of chapter 113 of title 18, United States  
 21 Code, is amended by inserting after the item relating to  
 22 section 2319A the following:

“2319B. Unauthorized recording of motion pictures in a motion picture exhi-  
 bition facility.”.

23       “(c) DEFINITION.—Section 101 of title 17, United  
 24 States Code, is amended by inserting after the definition

1 of “Motion pictures” the following: “The term “motion  
 2 picture exhibition facility” means a movie theater, screen-  
 3 ing room, or other venue that is being used primarily for  
 4 the exhibition of a copyrighted motion picture, if such ex-  
 5 hibition is open to the public or is made to an assembled  
 6 group of viewers outside of a normal circle of a family  
 7 and its social acquaintances.”.

8 **SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING**  
 9 **PREPARED FOR COMMERCIAL DISTRIBUTION.**  
 10

11 (a) PROHIBITED ACTS.—Section 506(a) of title 17,  
 12 United States Code, is amended to read as follows:

13 “(a) CRIMINAL INFRINGEMENT.—

14 “(1) IN GENERAL.—Any person who willfully  
 15 infringes a copyright shall be punished as provided  
 16 under section 2319 of title 18, if the infringement  
 17 was committed—

18 “(A) for purposes of commercial advantage  
 19 or private financial gain;

20 “(B) by the reproduction or distribution,  
 21 including by electronic means, during any 180-  
 22 day period, of 1 or more copies or phonorecords  
 23 of 1 or more copyrighted works, which have a  
 24 total retail value of more than \$1,000; or

1           “(C) by the distribution of a work being  
 2           prepared for commercial distribution, by mak-  
 3           ing it available on a computer network acces-  
 4           sible to members of the public, if such person  
 5           knew or should have known that the work was  
 6           intended for commercial distribution.

7           “(2) EVIDENCE.—For purposes of this sub-  
 8           section, evidence of reproduction or distribution of a  
 9           copyrighted work, by itself, shall not be sufficient to  
 10          establish willful infringement of a copyright.

11          “(3) DEFINITION.—In this subsection, the term  
 12          ‘work being prepared for commercial distribution’  
 13          means—

14               “(A) a computer program, a musical work,  
 15               a motion picture or other audiovisual work, or  
 16               a sound recording, if, at the time of unauthor-  
 17               ized distribution—

18                       “(i) the copyright owner has a reason-  
 19                       able expectation of commercial distribu-  
 20                       tion; and

21                       “(ii) the copies or phonorecords of the  
 22                       work have not been commercially distrib-  
 23                       uted; or

24               “(B) a motion picture, if, at the time of  
 25               unauthorized distribution, the motion picture—

1 “(i) has been made available for view-  
 2 ing in a motion picture exhibition facility;  
 3 and

4 “(ii) has not been made available in  
 5 copies for sale to the general public in the  
 6 United States in a format intended to per-  
 7 mit viewing outside a motion picture exhi-  
 8 bition facility.”.

9 (b) CRIMINAL PENALTIES.—Section 2319 of title 18,  
 10 United States Code, is amended—

11 (1) in subsection (a)—

12 (A) by striking “Whoever” and inserting  
 13 “Any person who”; and

14 (B) by striking “and (c) of this section”  
 15 and inserting “, (c), and (d)”;

16 (2) in subsection (b), by striking “section  
 17 506(a)(1)” and inserting “section 506(a)(1)(A)”;

18 (3) in subsection (c), by striking “section  
 19 506(a)(2) of title 17, United States Code” and in-  
 20 serting “section 506(a)(1)(B) of title 17”;

21 (4) by redesignating subsections (d) and (e) as  
 22 subsections (e) and (f), respectively;

23 (5) by adding after subsection (c) the following:

24 “(d) Any person who commits an offense under sec-  
 25 tion 506(a)(1)(C) of title 17—



1 “(1) shall be imprisoned not more than 3 years,  
2 fined under this title, or both;

3 “(2) shall be imprisoned not more than 5 years,  
4 fined under this title, or both, if the offense was  
5 committed for purposes of commercial advantage or  
6 private financial gain;

7 “(3) shall be imprisoned not more than 6 years,  
8 fined under this title, or both, if the offense is a sec-  
9 ond or subsequent offense; and

10 “(4) shall be imprisoned not more than 10  
11 years, fined under this title, or both, if the offense  
12 is a second or subsequent offense under paragraph  
13 (2).”; and

14 (6) in subsection (f), as redesignated—

15 (A) in paragraph (1), by striking “and” at  
16 the end;

17 (B) in paragraph (2), by striking the pe-  
18 riod at the end and inserting a semicolon; and

19 (C) by adding at the end the following:

20 “(3) the term ‘financial gain’ has the meaning  
21 given the term in section 101 of title 17; and

22 “(4) the term ‘work being prepared for com-  
23 mercial distribution’ has the meaning given the term  
24 in section 506(a) of title 17.”.

1 **SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK**  
 2 **BEING PREPARED FOR COMMERCIAL DIS-**  
 3 **TRIBUTION.**

4 (a) PREREGISTRATION.—Section 408 of title 17,  
 5 United States Code, is amended by adding at the end the  
 6 following:

7 “(f) PREREGISTRATION OF WORKS BEING PRE-  
 8 PARED FOR COMMERCIAL DISTRIBUTION.—

9 “(1) RULEMAKING.—Not later than 180 days  
 10 after the date of enactment of this subsection, the  
 11 Register of Copyrights shall issue regulations to es-  
 12 tablish procedures for preregistration of a work that  
 13 is being prepared for commercial distribution and  
 14 has not been published.

15 “(2) CLASS OF WORKS.—The regulations estab-  
 16 lished under paragraph (1) shall permit  
 17 preregistration for any work that is in a class of  
 18 works that the Register determines has had a his-  
 19 tory of infringement prior to authorized commercial  
 20 distribution.

21 “(3) APPLICATION FOR REGISTRATION.—Not  
 22 later than 3 months after the first publication of a  
 23 work preregistered under this subsection, the appli-  
 24 cant shall submit to the Copyright Office—

25 “(A) an application for registration of the  
 26 work;

1 “(B) a deposit; and

2 “(C) the applicable fee.

3 “(4) EFFECT OF UNTIMELY APPLICATION.—An  
 4 action under this chapter for infringement of a work  
 5 preregistered under this subsection, in a case in  
 6 which the infringement commenced no later than 2  
 7 months after the first publication of the work, shall  
 8 be dismissed if the items described in paragraph (3)  
 9 are not submitted to the Copyright Office in proper  
 10 form within the earlier of—

11 “(A) 3 months after the first publication of  
 12 the work; or

13 “(B) 1 month after the copyright owner  
 14 has learned of the infringement.”.

15 (b) INFRINGEMENT ACTIONS.—Section 411(a) of  
 16 title 17, United States Code, is amended by inserting  
 17 “preregistration or” after “shall be instituted until”.

18 (c) EXCLUSION.—Section 412 of title 17, United  
 19 States Code, is amended by inserting after “section  
 20 106A(a)” the following: “, an action for infringement of  
 21 the copyright of a work that has been preregistered under  
 22 section 408(f) before the commencement of the infringe-  
 23 ment and that has an effective date of registration not  
 24 later than the earlier of 3 months after the first publica-

tion of the work or 1 month after the copyright owner has learned of the infringement,”.

**SEC. 105. FEDERAL SENTENCING GUIDELINES.**

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

1           (1) take all appropriate measures to ensure that  
2           the Federal sentencing guidelines and policy state-  
3           ments described in subsection (a) are sufficiently  
4           stringent to deter, and adequately reflect the nature  
5           of, intellectual property rights crimes;

6           (2) determine whether to provide a sentencing  
7           enhancement for those convicted of the offenses de-  
8           scribed in subsection (a), if the conduct involves the  
9           display, performance, publication, reproduction, or  
10          distribution of a copyrighted work before it has been  
11          authorized by the copyright owner, whether in the  
12          media format used by the infringing party or in any  
13          other media format;

14          (3) determine whether the scope of “uploading”  
15          set forth in application note 3 of section 2B5.3 of  
16          the Federal sentencing guidelines is adequate to ad-  
17          dress the loss attributable to people who, without au-  
18          thorization, broadly distribute copyrighted works  
19          over the Internet; and

20          (4) determine whether the sentencing guidelines  
21          and policy statements applicable to the offenses de-  
22          scribed in subsection (a) adequately reflect any harm  
23          to victims from copyright infringement if law en-  
24          forcement authorities cannot determine how many

1 times copyrighted material has been reproduced or  
2 distributed.

3 **TITLE II—EXEMPTION FROM IN-**  
4 **FRINGEMENT FOR SKIPPING**  
5 **AUDIO AND VIDEO CONTENT**  
6 **IN MOTION PICTURES**

7 **SEC. 201. SHORT TITLE.**

8 This title may be cited as the “Family Movie Act of  
9 2005”.

10 **SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING**  
11 **AUDIO AND VIDEO CONTENT IN MOTION PIC-**  
12 **TURES.**

13 (a) IN GENERAL.—Section 110 of title 17, United  
14 States Code, is amended—

15 (1) in paragraph (9), by striking “and” after  
16 the semicolon at the end;

17 (2) in paragraph (10), by striking the period at  
18 the end and inserting “; and”;

19 (3) by inserting after paragraph (10) the fol-  
20 lowing:

21 “(11) the making imperceptible, by or at the di-  
22 rection of a member of a private household, of lim-  
23 ited portions of audio or video content of a motion  
24 picture, during a performance in or transmitted to  
25 that household for private home viewing, from an

1 authorized copy of the motion picture, or the cre-  
 2 ation or provision of a computer program or other  
 3 technology that enables such making imperceptible  
 4 and that is designed and marketed to be used, at the  
 5 direction of a member of a private household, for  
 6 such making imperceptible, if no fixed copy of the  
 7 altered version of the motion picture is created by  
 8 such computer program or other technology.”; and

9 (4) by adding at the end the following:

10 “For purposes of paragraph (11), the term ‘making  
 11 imperceptible’ does not include the addition of audio or  
 12 video content that is performed or displayed over or in  
 13 place of existing content in a motion picture.

14 “Nothing in paragraph (11) shall be construed to  
 15 imply further rights under section 106 of this title, or to  
 16 have any effect on defenses or limitations on rights grant-  
 17 ed under any other section of this title or under any other  
 18 paragraph of this section.”.

19 (b) EXEMPTION FROM TRADEMARK INFRINGE-  
 20 MENT.—Section 32 of the Trademark Act of 1946 (15  
 21 U.S.C. 1114) is amended by adding at the end the fol-  
 22 lowing:

23 “(3)(A) Any person who engages in the conduct de-  
 24 scribed in paragraph (11) of section 110 of title 17,  
 25 United States Code, and who complies with the require-

1 ments set forth in that paragraph is not liable on account  
2 of such conduct for a violation of any right under this Act.  
3 This subparagraph does not preclude liability, nor shall  
4 it be construed to restrict the defenses or limitations on  
5 rights granted under this Act, of a person for conduct not  
6 described in paragraph (11) of section 110 of title 17,  
7 United States Code, even if that person also engages in  
8 conduct described in paragraph (11) of section 110 of  
9 such title.

10 “(B) A manufacturer, licensee, or licensor of tech-  
11 nology that enables the making of limited portions of  
12 audio or video content of a motion picture imperceptible  
13 as described in subparagraph (A) is not liable on account  
14 of such manufacture or license for a violation of any right  
15 under this Act, if such manufacturer, licensee, or licensor  
16 ensures that the technology provides a clear and con-  
17 spicuous notice at the beginning of each performance that  
18 the performance of the motion picture is altered from the  
19 performance intended by the director or copyright holder  
20 of the motion picture. The limitations on liability in sub-  
21 paragraph (A) and this subparagraph shall not apply to  
22 a manufacturer, licensee, or licensor of technology that  
23 fails to comply with this paragraph.

24 “(C) The requirement under subparagraph (B) to  
25 provide notice shall apply only with respect to technology



1 manufactured after the end of the 180-day period begin-  
 2 ning on the date of the enactment of the Family Movie  
 3 Act of 2005.

4 “(D) Any failure by a manufacturer, licensee, or li-  
 5 censee of technology to qualify for the exemption under  
 6 subparagraphs (A) and (B) shall not be construed to cre-  
 7 ate an inference that any such party that engages in con-  
 8 duct described in paragraph (11) of section 110 of title  
 9 17, United States Code, is liable for trademark infringe-  
 10 ment by reason of such conduct.”.

11 (c) DEFINITION.—In this section, the term “Trade-  
 12 mark Act of 1946” means the Act entitled “An Act to  
 13 provide for the registration and protection of trademarks  
 14 used in commerce, to carry out the provisions of certain  
 15 international conventions, and for other purposes”, ap-  
 16 proved July 5, 1946 (15 U.S.C. 1051 et seq.).

## 17 **TITLE III—NATIONAL FILM** 18 **PRESERVATION**

### 19 **Subtitle A—Reauthorization of the** 20 **National Film Preservation Board**

#### 21 **SEC. 301. SHORT TITLE.**

22 This subtitle may be cited as the “National Film  
 23 Preservation Act of 2005”.

1 **SEC. 302. REAUTHORIZATION AND AMENDMENT.**

2 (a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Sec-  
3 tion 103 of the National Film Preservation Act of 1996  
4 (2 U.S.C. 179m) is amended—

5 (1) in subsection (b)—

6 (A) by striking “film copy” each place that  
7 term appears and inserting “film or other ap-  
8 proved copy”;

9 (B) by striking “film copies” each place  
10 that term appears and inserting “film or other  
11 approved copies”; and

12 (C) in the third sentence, by striking  
13 “copyrighted” and inserting “copyrighted, mass  
14 distributed, broadcast, or published”; and

15 (2) by adding at the end the following:

16 “(c) COORDINATION OF PROGRAM WITH OTHER  
17 COLLECTION, PRESERVATION, AND ACCESSIBILITY AC-  
18 TIVITIES.—In carrying out the comprehensive national  
19 film preservation program for motion pictures established  
20 under the National Film Preservation Act of 1992, the  
21 Librarian, in consultation with the Board established pur-  
22 suant to section 104, shall—

23 “(1) carry out activities to make films included  
24 in the National Film registry more broadly acces-  
25 sible for research and educational purposes, and to  
26 generate public awareness and support of the Reg-

1        istry and the comprehensive national film preserva-  
 2        tion program;

3            “(2) review the comprehensive national film  
 4        preservation plan, and amend it to the extent nec-  
 5        essary to ensure that it addresses technological ad-  
 6        vances in the preservation and storage of, and access  
 7        to film collections in multiple formats; and

8            “(3) wherever possible, undertake expanded ini-  
 9        tiatives to ensure the preservation of the moving  
 10       image heritage of the United States, including film,  
 11       videotape, television, and born digital moving image  
 12       formats, by supporting the work of the National  
 13       Audio-Visual Conservation Center of the Library of  
 14       Congress, and other appropriate nonprofit archival  
 15       and preservation organizations.”.

16        (b) NATIONAL FILM PRESERVATION BOARD.—Sec-  
 17       tion 104 of the National Film Preservation Act of 1996  
 18       (2 U.S.C. 179n) is amended—

19            (1) in subsection (a)(1) by striking “20” and  
 20        inserting “22”;

21            (2) in subsection (a) (2) by striking “three”  
 22        and inserting “5”;

23            (3) in subsection (d) by striking “11” and in-  
 24        serting “12”; and

1           (4) by striking subsection (e) and inserting the  
2           following:

3           “(e) REIMBURSEMENT OF EXPENSES.—Members of  
4           the Board shall serve without pay, but may receive travel  
5           expenses, including per diem in lieu of subsistence, in ac-  
6           cordance with sections 5702 and 5703 of title 5, United  
7           States Code.”.

8           (c) NATIONAL FILM REGISTRY.—Section 106 of the  
9           National Film Preservation Act of 1996 (2 U.S.C. 179p)  
10          is amended by adding at the end the following:

11          “(e) NATIONAL AUDIO-VISUAL CONSERVATION CEN-  
12          TER.—The Librarian shall utilize the National Audio-Vis-  
13          ual Conservation Center of the Library of Congress at  
14          Culpeper, Virginia, to ensure that preserved films included  
15          in the National Film Registry are stored in a proper man-  
16          ner, and disseminated to researchers, scholars, and the  
17          public as may be appropriate in accordance with—

18                 “(1) title 17, United States Code; and

19                 “(2) the terms of any agreements between the  
20          Librarian and persons who hold copyrights to such  
21          audiovisual works.”.

22          (d) USE OF SEAL.—Section 107 (a) of the National  
23          Film Preservation Act of 1996 (2 U.S.C. 179q(a)) is  
24          amended—

1 (1) in paragraph (1), by inserting “in any for-  
2 mat” after “or any copy”; and

3 (2) in paragraph (2), by striking “or film copy”  
4 and inserting “in any format”.

5 (e) EFFECTIVE DATE.—Section 113 of the National  
6 Film Preservation Act of 1996 (2 U.S.C. 179w) is amend-  
7 ed by striking “7” and inserting “12”.

8 **Subtitle B—Reauthorization of the**  
9 **National Film Preservation**  
10 **Foundation**

11 **SEC. 311. SHORT TITLE.**

12 This subtitle may be cited as the “National Film  
13 Preservation Foundation Reauthorization Act of 2005”.

14 **SEC. 312. REAUTHORIZATION AND AMENDMENT.**

15 (a) BOARD OF DIRECTORS.—Section 151703 of title  
16 36, United States Code, is amended—

17 (1) in subsection (b)(2)(A), by striking “nine”  
18 and inserting “12”; and

19 (2) in subsection (b)(4), by striking the second  
20 sentence and inserting “There shall be no limit to  
21 the number of terms to which any individual may be  
22 appointed.”.

23 (b) POWERS.—Section 151705 of title 36, United  
24 States Code, is amended in subsection (b) by striking

1 “District of Columbia” and inserting “the jurisdiction in  
2 which the principal office of the corporation is located”.

3 (c) PRINCIPAL OFFICE.—Section 151706 of title 36,  
4 United States Code, is amended by inserting “, or another  
5 place as determined by the board of directors” after “Dis-  
6 trict of Columbia”.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—Section  
8 151711 of title 36, United States Code, is amended by  
9 striking subsections (a) and (b) and inserting the fol-  
10 lowing:

11 “(a) AUTHORIZATION OF APPROPRIATIONS.—There  
12 are authorized to be appropriated to the Library of Con-  
13 gress amounts necessary to carry out this chapter, not to  
14 exceed \$530,000 for each of the fiscal years 2005 through  
15 2009. These amounts are to be made available to the cor-  
16 poration to match any private contributions (whether in  
17 currency, services, or property) made to the corporation  
18 by private persons and State and local governments.

19 “(b) LIMITATION RELATED TO ADMINISTRATIVE EX-  
20 PENSES.—Amounts authorized under this section may not  
21 be used by the corporation for management and general  
22 or fundraising expenses as reported to the Internal Rev-  
23 enue Service as part of an annual information return re-  
24 quired under the Internal Revenue Code of 1986.”.

1     **TITLE IV—PRESERVATION OF**  
2                   **ORPHAN WORKS**

3     **SEC. 401. SHORT TITLE.**

4         This title may be cited as the “Preservation of Or-  
5     phan Works Act”.

6     **SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LI-**  
7                   **BRARIES AND ARCHIVES.**

8         Section 108(i) of title 17, United States Code, is  
9     amended by striking “(b) and (c)” and inserting “(b), (c),  
10    and (h)”.

